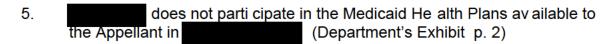
STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM FOR THE DEPARTMENT OF COMMUNITY HEALTH

P.O. Box 30763, Lansing, MI 48909 (877) 833-0870; Fax: (517) 334-9505

IN THE MAT	ITER OF:	Docket No. Case No.	2012-46282 MCE
Appellant ———			
DECISION AND ORDER			
and 42 CF R Department	is before the undersigned Administ ra 431.200 et seq., upon the Appellant of Community Healt h (Department's are Program enrollment.	's request for a l	nearing appealing the
After due notice, a hearing was held on behalf of the Appellant. represented the Department. She had no witnesses.			
ISSUE			
Did the Department properly deny Appellant's request for exception from Managed Care Program enrollment?			
FINDINGS OF FACT			
The Administrative Law Judge, based upon — the competent, material and substantial evidence on the whole record, finds as material fact:			
1.	The Appellant is a Exhibit #1 p.12)	benef id	ciary. (Department's
2.	The Appellant resides in enrolled in (Appellant's	. Or Exhibit #1)	, she enrolled in
3.	The Appellant is in a population that Health Plan (MHP). (Department's	•	enr oll in a Medicaid
4.	On the Enrollment Services Section rece iv from the Appellant's physican	ed a managed ca	re exception request



- 6. On the Appellant's request for a managed care exception was denied and the Departm ent sent the Appellant written notice that her request was denied.
- 7. On Appellant's request for an administrative Hearing System received the Appellant's request for an administrative hearing.
- 8. On the Appellant's request for Managed Care Exception was reviewed by
 the Department decision to deny the Appellant's managed care exception request. (Department's Exhibit, p. 16)

CONCLUSIONS OF LAW

The Medic al Ass istance Program is establis hed purs uant to Tit le XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with states a statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

On the Department was not ified of the approval of its request for a waiver of certain portions of the Soc ial Security Act to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Qualified Health Plans.

Michigan Public Act 131 of 2009 states, in relevant part:

Sec. 1650 (3) The criteria for medical exceptions to HMO enrollment shall be based on su bmitted documentation that indicates a recipient has a <u>serious medical condition</u>, and is undergoing active treatment for that condition with a <u>physician who does not participate</u> in 1 of the HMOs. If the person meets the criteria est ablished by this subsection, the department shall grant an exc eption to mandatory enrollment at least through the current prescribed course of treatment, subject to periodic review of continued eligibility.

The Medicaid Provider Manual (MPM), Beneficiary Eligibility §9.3, page 37, states:

The intent of the medical exc eption process is to preserve continuity of medical care fo r a beneficiary who is rec eiving active treatment for a serious medical condition from an attending physician who would not be available to the

beneficiary if the beneficiary is enrolled in a MHP. The medical exception may be granted on a time-limited basis necessary to complete treatment for the serious condition. The medical except ion proces s is only available to a beneficiary who is not yet enrolled in a MHP, or who has been enrolled for less than two months. MHP enrollment would be delayed until one of the following occurs:

- the attending physician completes the current ongoing plan of m edical treatment for the patient's serious medical condition, or
- the condition stabiliz es and becomes chronic in nature, or
- the physician becomes ava ilable to the beneficiary through enrollment in a MHP.

If the treating physician can provide service through a MHP that the beneficiary can be enrolled in, then there is no basis for a medical exception to managed care enrollment.

The MPM also states at pp. 37-38:

Serious Medical Condition

Grave, complex, or life threatening

Manifests symptoms needing timely intervention to prevent complications or permanent impairment.

An acute exacerbation of a chronic condition may be considered serious for the purpose of medical exception.

Chronic Medical Condition

Relatively stable

Requires long term management

Carries little immediate risk to health

Fluctuates over time, but responds to well-known standar d medical treatment protocols.

Active treatment

Active treatment is reviewed in regards to intensity of services when:

- The beneficiary is seen regularly, (e.g., monthly or more frequently) and
- The condition requires timely and ongoin assessment because of the s everity of symptoms and/or the treatment.

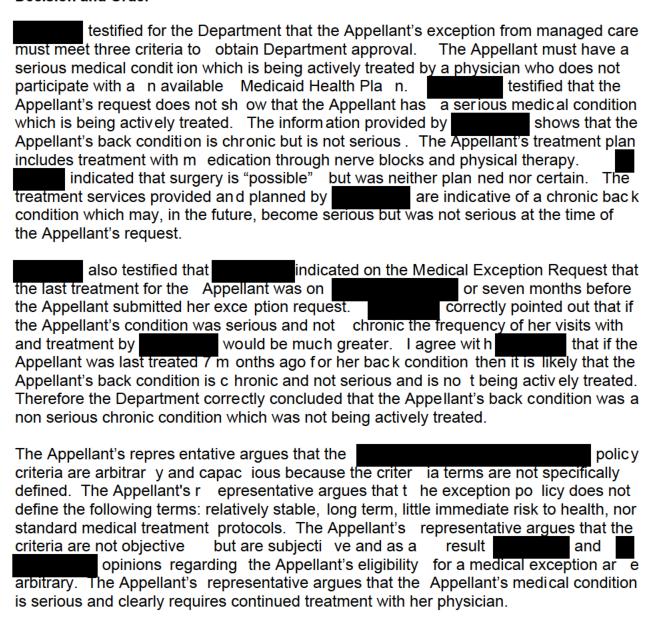
Attending/Treating Physician

The physic ian may be either a primary care doctor or a specialist whose scope of practice enables the interventions necessary to treat the serious condition.

MHP Participating Physician

A physician is considered participating in a MHP if he is in the MHP provider network or is available on an out-of-network basis with one of the MHPs with which the beneficiary can be enrolled. The physician may not have a contract with the MHP but may have a referral arrangement to treat the plan's enrollees. If the physician can treat the beneficiary and receive payment from the plan, then the beneficiary would be enrolled in that plan and nomedical exception would be allowed.

, the Appellant's treating The undis puted evidence shows that on physician, completed a M edical Exception Request form for indicated on the form that he began treating the Appellant on the Appellant. and last saw the Appellant on was treating the Appellant every two to four weeks for the following diagnosed conditions: low back pain with lumbar radiculopathy affecting the left leg. A revealed that the Appellant has at L3-L4 and L4-L5. According to report Ik long dist ances. T he the Appellant cannot stand for I ong periods of time or wa Appellant's back condition was treated with various pain medications. The Appellant is seeking an exc eption from managed c are so she c an continue to be treated does not participate with any of the available to the Appellant.



I find that the Department's Medical Exception policy is neither arbitrary nor capricious. The policy criteria, while not perfect, are sufficiently specific to identify Medicaid beneficiaries who would benefit from an exception from manage d care. I find that the evidence s hows that the Appellant's back condition is a chronic condition and not a serous condition at this time. Therefore the Department properly concluded that the Appellant is not eligible for an exception from managed care. The Appellant has a full range of Medicaid cov ered services available to her through her Medicaid Health Plan which may be accessed to obtain services that her physician determines are medically necessary to treat the Appellant's back condition.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the D epartment properly deni ed the Appellant's request for an exception from managed care.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Martin D. Snider
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: Harryann Bonner
Gad Holland, Attorney
Karen Miller

Date Mailed:

*** NOTICE ***

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.